

# **EXHIBIT E**

# KEEPS TERMS OF USE

EFFECTIVE: January 7, 2022

LAST UPDATED: August 15, 2024

## 1. AGREEMENT, ACKNOWLEDGEMENT, AND ACCEPTANCE OF TERMS

These Terms of Use ("Terms") govern your access to and use of our non-clinical services, interfaces, and properties, which include but are not limited to websites, mobile applications, software, email, social media and any other service or product contained or offered therein (collectively the "Service") that are owned or controlled by Thirty Madison, Inc. d/b/a Keeps ("Keeps," "we," "us," and "our"). As part of offering the Service, Keeps contracts with KMG Medical Group MO, P.C. and its affiliated entities, KMG Medical Group, P.A., KMG Medical Group NJ, P.C., and Michael Karagas, M.D., P.C. (collectively the "KMG Medical Group") to provide online telehealth medical consultations and secure messaging between KMG Medical Group physicians and clinicians (each a "Provider") and their patients. Accordingly, our Service includes the communication regarding professional medical services provided to you by KMG Medical Group through its contractual relationship with us, and your access to and use of these services are subject to these Terms.

These Terms affect your legal rights, responsibilities, and obligations; govern your use of the Service; are legally binding; limit Keep's liability to you; and require you to indemnify Keeps and to settle certain disputes through arbitration. Your acceptance of, and compliance with, these Terms is a condition to your use of our Service and website at <https://www.keeps.com>, as well as other of Keep's websites and online platforms (collectively, the "Site").

We reserve the right to change these Terms at any time and at our sole discretion. Any changes to the Terms will be effective immediately upon posting and you agree to the new posted Terms by continuing your use of the Service. It is your responsibility to check periodically for any changes we may make to these Terms. In addition, these Terms are written in the English language. We do not guarantee the accuracy of any

translated versions of these Terms. To the extent any translated versions of these Terms conflict with the English language version, the English language version of these Terms shall control.

Our Site and Service are only for users who are eighteen (18) years of age or over. If you are under the age of 18, please do not attempt to register with us at this Site or provide any personal information about yourself to us. If we learn that we have collected personal information from someone under the age of 18, we will promptly delete that information. If you believe we have collected personal information from someone under the age of 18, please email us at [help@keeps.com](mailto:help@keeps.com).

By clicking “accept” or otherwise using the Service, you acknowledge that you have read, understand, and accept all terms and conditions contained within these Terms, our [Privacy Policy](#), and KMG Medical Group's [Notice of Privacy Practices](#). You agree that information provided by you in connection with our Service shall be governed by the Privacy Policies, which are hereby incorporated and made a part of these Terms. You further agree that you are at least the legal age of majority in the jurisdiction in which you reside and that these Terms apply to you, your dependents, and any other person with access to your Keeps Account (collectively “you” and “your”). You understand and accept that we may, in our sole discretion, terminate your access to all or part of our Site and Service at any time, with or without cause, and with or without notice.

If you do not agree to be bound by these Terms, or if you are under the age of eighteen (18), you are not authorized to access or use this Site or our Service and must immediately exit the Site.

## **2.MEDICAL SERVICES AND RELATED ADVICE**

KEEPS DOES NOT PROVIDE MEDICAL ADVICE, MEDICAL SERVICES, OR MEDICAL CARE. There is no single provider of medical care called Keeps. Rather, Keeps contracts with KMG Medical Group, which are independent, physician-owned medical groups with a network of United States based Providers who provide clinical telehealth services. KMG Medical Group Providers deliver clinical services via the Keeps platform to their patients. We offer an online communication platform for these Providers and their patients to connect via the Site through the use of synchronous and asynchronous telecommunications technologies. The Site facilitates communication between patients and Providers. As set forth below, some of these communications may be by text

messages or other communicative mediums that may be insecure, and you specifically acknowledge and consent to the utilization of communicative mediums that may be less secure or vulnerable to unauthorized access associated with the Service. Keeps does not own or operate the medical practices, or employ or supervise the providers, but may provide business support services to them. Keeps licenses the Keeps brand name to the independently owned and operated medical practices that use this website and Keeps business support services. The care provided by the Providers is the sole responsibility of the independent practice and the providers they employ. Services may vary across medical practices. Patients should contact the medical practices directly for all questions concerning their treatment.

Providers are independent of Keeps and merely use our Site to communicate with you. Keeps does not employ or contract with Providers. Providers are independently contracted or employed by KMG Medical Group. Thus, Providers, and not Keeps, are responsible for the quality and appropriateness of the care they render to you, as well as for the security and integrity of any communicative mediums used with you.

Moreover, any information or advice received from a Provider comes from the Provider alone, and not from Keeps. Your interactions with Providers via our Site are not intended to take the place of your relationship with your regular health care practitioners or primary care physician. Neither Keeps, nor any of its subsidiaries or affiliates or any third party who may promote the Site or Service or provide a link to the Service, shall be liable for any professional advice obtained from a Provider via the Site or Service or for any information obtained from the Site. Keeps does not recommend or endorse any specific Providers, tests, physicians, medications, products, or procedures. By using our Service, you acknowledge and accept that your reliance on any Providers or information delivered by the Providers via the Site or Service is solely at your own risk, and you assume full responsibility for all risks associated herewith.

Keeps does not make any representations or warranties about the training or skill of any Providers who deliver services via the Site or Service, or about the security of any communicative mediums provided by Keeps. You will be provided with a listing of available Providers based solely on the information you submit to the Site. You are ultimately responsible for choosing your particular Provider.

The content of the Site and the Service, including without limitation, text, copy, audio, video, photographs, illustrations, graphics and other visuals, is for informational

purposes only and does not constitute professional medical advice, diagnosis, treatment, or recommendations of any kind by Keeps. You should always seek the advice of your qualified health care professionals with any questions or concerns you may have regarding your individual needs and any medical conditions. All information provided by Keeps, or in connection with any communications supported by Keeps, is intended to be for general information purposes only, and is in no way intended to create a provider-patient relationship as defined by state or federal law. While Keeps facilitates your selection of, and communications with, Providers, Keeps does not provide medical services, and the doctor-patient relationship is between you and the KMG Medical Group Provider you select.

### ***Medical Emergencies and Urgent Situations***

THE KEEPS SITE AND SERVICE ARE NOT FOR MEDICAL EMERGENCIES OR URGENT SITUATIONS. IF YOU ARE EXPERIENCING A MEDICAL EMERGENCY, YOU SHOULD DIAL "911" IMMEDIATELY.

You should not disregard or delay to seek medical advice based on anything that appears or does not appear on the Keeps Site. If you believe you have an emergency, call 9-1-1 immediately. You should seek emergency help or follow up care when recommended by a Provider or when otherwise needed. You should continue to consult with your primary provider and other healthcare professionals as recommended. Always seek the advice of a physician or other qualified healthcare provider concerning questions you have regarding a medical condition and before stopping, starting, or modifying any treatment or modification.

### ***Risks of Telehealth Services***

By using our Service, you acknowledge the potential risks associated with telehealth services. These risks include but are not limited to the following:

1. Information transmitted may not be sufficient—for example, because of poor resolution of images—to allow for appropriate medical or health care decision making by the Provider;
2. Delays in evaluation or treatment could occur due to failures of electronic equipment;
3. A lack of access to your medical records may result in adverse drug interactions or allergic reactions or other judgment errors; and
4. Although the electronic systems we use incorporate network and software security

protocols to protect the privacy and security of health information, those protocols could fail, causing a breach of privacy of your health information, and certain mediums of communication used to communicate with you- such as text messages- may be less secure than others that are commercially available.

### ***Prescription Policy***

Neither Keeps nor KMG Medical Group endorse any specific medication, pharmacy, or pharmacologic product. If a Provider prescribes a medication, the Provider will limit supply based upon state regulations and will only prescribe a medication as determined in the Provider's own discretion and professional judgment. There is no guarantee a prescription will be written. Providers do not prescribe DEA controlled substances or scheduled medications, or certain other drugs which may be harmful because of their potential for abuse. Providers reserve the right to deny care for actual or potential misuse of the Service.

By using our Service, you agree that any prescriptions that you acquire from a Provider will be solely for your personal use. You agree to fully and carefully read all provided product information and labels and to contact a physician or pharmacist if you have any questions regarding the prescription. Keeps and KMG Medical Group fully honor patient freedom of choice and, if you receive a prescription for a medication, you always have the option to instruct KMG Medical Group to transmit that prescription to the pharmacy of your choice.

### **Not an Insurance Product**

Neither Keeps or KMG Medical Group are insurers. The Service does not include insurance products, and the amounts you pay to Keeps or KMG Medical Group are not insurance premiums. If you desire any type of health or other insurance, you will need to purchase such insurance separately.

### **3.AVAILABILITY OF SERVICES**

Keeps and KMG Medical Group operate subject to state and federal regulations, and the Service may not be available in your state. You represent that you are not a person barred from enrolling for or receiving the Service under the laws of the United States or other applicable jurisdictions in which you may be located. Access to and use of the Site or the Service is limited exclusively to users located in States within the United States

where the Service is available. The Service is not available to users located outside the United States. Accessing the Site or Service from jurisdictions where content is illegal, or where we do not offer Service, is prohibited.

#### **4. ORDERING AND PURCHASING OUR PRODUCTS**

##### ***Order Acceptance and Shipment***

Your placement of an order does not necessarily ensure that we will accept your order. We may require additional information regarding your order if you have not provided all the information required by us to complete the order, including a prescription, where required. Once a properly completed order and authorization of your form of payment is received, we will process your order and product for shipment. If, for some reason, we determine that we cannot ship your product(s) within thirty (30) days following our receipt of a properly completed order, we will cancel your order and advise you of such action. We do not accept orders from dealers, wholesalers or other customers who intend to resell items offered on our Site.

##### ***Typographical Errors and Incorrect Pricing***

In the event a product or Service is listed at an incorrect price due to typographical error or error in pricing information received from a third party, we shall have the right to refuse or cancel any orders placed for the product(s) or Service(s) listed at the incorrect price. We shall have the right to refuse or cancel any such orders whether or not the order has been confirmed and your credit or debit card charged. If your credit or debit card has already been charged for the purchase and your order is canceled, we will promptly issue a credit to your credit or debit card account in the amount of the charge.

##### ***Risk of Loss***

All products purchased from our Site are delivered to shipment carriers. The risk of loss and title for such products pass to you when they are delivered to the carrier.

##### ***Return Policy***

You may return products in accordance with the [Returns Policy](#) posted on our Site, as may change from time to time.

#### **5. SITE ACCESS, SECURITY, AND RESTRICTIONS**

In order to access the Site and the Service, you represent and warrant that you are older than eighteen (18) years old. You agree to fully, accurately, and truthfully create your Keeps Account ("Account") by providing information that includes but is not limited to your name, mailing address, phone number, email address, and password (collectively your "Keeps ID"). Your Keeps ID and Account are personal to you, and you are solely responsible for maintaining the confidentiality of your Keeps ID and Account, and for all activities that occur under your Keeps ID or Account. You agree to prohibit anyone else from using your Keeps ID and Account and agree to immediately notify Keeps of any actual or suspected unauthorized use of your Keeps ID or Account. You further agree to notify Keeps of any other security concerns of which you become aware. You also accept that access to the Site may be revoked by Keeps at any time with or without cause.

You are prohibited from violating or attempting to violate the security of the Site, including, without limitation, by accessing data not intended for your use or by logging onto a server or an account which you are not authorized to access; attempting to probe, scan, or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; and accessing or using the Site or any portion thereof without authorization, in violation of these Terms or in violation of applicable law.

You may not use any scraper, crawler, spider, robot, or other automated means of any kind to access or copy data on the Site, deep-link to any feature or content on the Site, bypass our robot exclusion headers, or circumvent other measures we may use to prevent or restrict access to the Site.

Violations of system or network security may result in civil or criminal liability. Keeps will investigate occurrences that may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting users who are involved in such violations. You agree not to use any device, software or routine to interfere or attempt to interfere with this Site or any activity being conducted on this Site.

## **6.ELECTRONIC COMMUNICATIONS**

When you use the Site or Service, or send emails, messages, and other communications from your desktop or mobile device to us, you are communicating with us electronically. You consent to receive communications from us electronically. You agree that (a) all



agreements and consents can be signed electronically and (b) all notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such notices and other communications be in writing.

Keeps and KMG Medical Group may contact you by telephone, mail, text message, or email to verify your account information. Keeps and KMG Medical Group may request further information from you and you agree to provide such further information to ensure that you have not fraudulently created your Account. If you do not provide this information in the manner requested within fourteen (14) days of the request, we reserve the right to suspend, discontinue, or deny your access to and use of the Site and the Service until you provide the information to us as requested.

## 7. CONSENT TO RECEIVE TRANSACTIONAL CALLS AND TEXT MESSAGES

By providing your mobile number to us, you agree to be contacted by or on behalf of Keeps and KMG Medical Group at the mobile number you have provided, including via phone call or text message, to receive transactional communications relating to the Site or Service, and you recognize and acknowledge that text messaging is an inherently less secure of a method of communication and agree to receive text messages regardless of the level of security associated with them. Such communications may include, without limitation, progress tracking, refill reminders, and checkup reminders. Message and data rates may apply. For help regarding the communications we exchange with you using your phone number, reply with the word **HELP** to (800) 321-6879.

Consent to receive transactional text messages is not a condition of purchasing any of our goods and services, and you are free to opt-out at any time of transactional text messages. If you would like to stop receiving transactional text messages, you may reply with the word **STOP** to (800) 321-6879. Note that we may confirm your opt out by text message. If you subscribe to multiple types of transactional text messages from us, we may unsubscribe you from the Service that most recently sent you a message or respond to your **STOP** message by texting you a request to identify the Service(s) you wish to stop. Keep in mind that if you stop receiving transactional text messages from us, you may not receive important and helpful information and reminders about your progress and treatment.

Consent to receive marketing text messages are subject to [separate terms](#).

## 8. OWNERSHIP OF SERVICE

With the exception of your electronic medical record, the Service and all of its content, including without limitation all copyrights, patents, trademarks, service marks, and trade names, as well as all logos, text, design, graphics, logos, icons, images, audio clips, downloads, interfaces, code and software, as well as the selection and arrangement thereof, and all other intellectual property (collectively referred to as the “Content”), are all proprietary and owned or controlled by Keeps, our licensors, and certain other third parties. All right, title, and interest in and to the Content available via the Service is the exclusive property of and owned by Keeps, our licensors or certain other third parties, and is protected by United States and international copyright, trademark, trade dress, patent or other intellectual property and unfair competition rights and laws to the fullest extent possible.

All rights not expressly granted to you in these Terms are reserved and retained by Keeps and its licensors, suppliers, publishers, rights holders, and other content providers. Accordingly, you may not modify, copy, distribute, reproduce, publish, retransmit, disseminate, rent, lease, loan, sell, publish, broadcast, display, circulate, or use the Content, in whole or in part, for any purpose that has not been authorized or approved in writing by Keeps, including but not limited to commercial purposes. You are also strictly prohibited from publicly displaying the Content; attempting to decompile or reverse engineer the Content; removing any copyright, trademark, or other proprietary notations from the Content; framing or utilizing framing techniques to enclose or deep-link to the Content; applying metatags or “hidden text” to the Content; or otherwise infringing upon the intellectual property rights of Keeps or misusing Keeps’ Site or Service.

Keeps owns and uses several trademarks on the Service, including but not limited to: KEEPS and the CROWN logo. All rights reserved.

Nothing contained on the Site should be construed as granting, by implication, estoppel, waiver or otherwise, any license or right to use any intellectual property, including without limitation any trademarks, service marks or logos displayed on the Site, without the express written consent of Keeps, KMG Medical Group, or the third party owner of such intellectual property. The Site may contain other proprietary notices and copyright information, the terms of which you agree to follow by using the Site or Service.

Additionally, you acknowledge and accept that Keeps may in its sole discretion delete

any information provided by you that it deems to be fraudulent, abusive, defamatory, obscene, or in violation of any intellectual property or ownership rights of any other person or entity.

Some features of the Service may now or in the future allow you to provide content, such as written comments or reviews, to be published or displayed on public areas of the Service ("User Content"). All content submitted by you to the Service may be retained by us indefinitely, even after you terminate your Account. By submitting any User Content, you grant to Keeps a perpetual, worldwide, irrevocable, non-exclusive, royalty-free license to use the User Content in any manner, including to create derivative works, without any compensation or notice to you. Your User Content may be posted and transmitted to others at your own risk. We cannot control the actions of other Users of the Site with whom you may choose to share your User Content.

## 9.ACCURACY OF INFORMATION; FUNCTIONALITY

Although Keeps attempts to ensure the integrity and accuracy of the Site and product descriptions, it makes no representations, warranties, or guarantees whatsoever as to the correctness or accuracy of the Site, product descriptions, or other content on the Site. It is possible that the Site could include typographical errors, inaccuracies, or other errors, and that unauthorized additions, deletions, and alterations could be made to the Site by third parties. In the event that an inaccuracy arises, please inform Keeps so that it can be corrected. If a product described on our Site is not as described when you receive it, or the packaging on the Site does not match the product to receive, your sole remedy is to return it to us in unused and undamaged condition. Information contained on the Site may be changed or updated without notice. Additionally, Keeps shall have no responsibility or liability for information or content posted to the Site from any non-Keeps affiliated third party.

Keeps and KMG Medical Group each reserves complete and sole discretion with respect to the operation of the Site and the Service. We may withdraw, suspend, or discontinue any functionality or feature of the Site or the Service, among other things. We are not responsible for transmission errors, corruption, or compromise of information carried over local or interchange telecommunications carriers. We are not responsible for maintaining information arising from use of the Site or with respect to the Service. We reserve the right to maintain, delete, or destroy all communications or information posted or uploaded to the Site or the Services in accordance with our internal record

retention or destruction policies.

## **10.LINKS TO OTHER MATERIALS**

The Service may provide links to other third-party websites ("Linked Sites"). Keeps has not reviewed all of the information on the Linked Sites, does not maintain any of the Linked Sites, and cannot control the completeness, accuracy, or security of the content contained on any Linked Site. The content of, including materials and information contained on, any Linked Site is solely the responsibility of the provider of that Linked Site. Keeps and is not responsible for the contents of any such Linked Site, and the inclusion of any link to a Linked Site does not imply endorsement by Keeps of the Linked Site. Use of any such linked web site is at the user's own risk.

The views and opinions expressed in Linked Sites are those of the authors or third parties and do not necessarily reflect the official policy or position of Keeps. If you decide to access any Linked Site, you do this entirely at your own risk. References to any names, marks, products, or services of any third parties, third-party information, or Linked Sites are provided solely as a convenience to you, and do not constitute or imply an endorsement, sponsorship or recommendation of, or affiliation with, the third party or its products and services. Keeps makes no representation or warranty as to any Linked Site, content, products or services, and you agree that Keeps shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such third-party content, products, or services available on or through any Linked Site or similar resource.

AS PERMITTED BY APPLICABLE LAW, WE SHALL UNDER NO CIRCUMSTANCES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL OR SPECIAL LOSS, OR OTHER DAMAGE, WHETHER ARISING FROM NEGLIGENCE, BREACH OF CONTRACT, DEFAMATION, INFRINGEMENT OF COPYRIGHT, OR OTHER INTELLECTUAL PROPERTY RIGHTS, CAUSED BY THE EXHIBITION, DISTRIBUTION, OR EXPLOITATION OF ANY INFORMATION OR CONTENT CONTAINED WITHIN THESE THIRD-PARTY SERVICES.

## **11.USER INFORMATION**

If you submit, upload, post or transmit any health information, medical history, conditions, problems, symptoms, personal information, consent forms, agreements, requests, comments, ideas, suggestions, information, files, videos, images, insurance

cards or other materials to us or our Site ("User Information"), you agree not to provide any User Information that (1) is false, inaccurate, defamatory, abusive, libelous, unlawful, obscene, threatening, harassing, fraudulent, pornographic, or harmful, or that could encourage criminal or unethical behavior; (2) violates or infringes the privacy, copyright, trademark, trade dress, trade secrets or intellectual property rights of any person or entity; or (3) contains or transmits a virus or any other harmful component. You agree not to contact other Site users through unsolicited e-mail, telephone calls, mailings, or any other method of communication. You represent and warrant to Keeps and KMG Medical Group that you have the legal right and authorization to provide all User Information to Keeps and KMG Medical Group for use as set forth herein and required by Keeps and the Keeps Medical Group Provider.

You further understand and accept that you may not:

1. Access the Site or use the Service in any unlawful way or for any unlawful purpose;
2. Post or transmit any data, materials, content, or information, including without limitation messages sent or exchanged under a false name, advice, and recommendations, (collectively "Information"), that are (a) libelous, defamatory, obscene, fraudulent, false, or contrary to the ownership or intellectual property rights of any other person, or that (b) contain or promote any virus, worm, Trojan horse, time bomb, malware, or other computer programing or code that is designed or intended to damage, destroy, intercept, download, interfere, manipulate, or otherwise interrupt or expropriate the Site or the Service, personal information, software, equipment, servers, or Information or facilitate or promote hacking or similar conduct;
3. Impersonate or misrepresent your identity or falsely state or misrepresent your affiliation with a person or entity;
4. Tamper, hack, spoof, copy, modify, or otherwise corrupt the administration, security, or proper function of the Site or the Service;
5. Use robots or scripts with the Site;
6. Attempt to reverse engine, reverse assemble, reverse compile, decompile, disassemble, translate, or otherwise alter, defraud, or create false results from any executable code, information on, or received by this Site;
7. Have any antivirus or antispyware software running that is set to override the internet browser's cookies setting;
8. Incorrectly identify the sender of any message transmitted to Keeps by altering the attribution or origin of electronic mail, messages, or posting;

9. Harvest or collect personal health information about any other individual who uses the Site or the Service;
10. Infringe or facilitate infringement on any copyright, patent, trademark, trade secret, or other proprietary, publicity, or privacy rights of any party, including such rights of third parties; or
11. Otherwise engage in or promote any act or activity contrary to any applicable local, state, or federal law.

YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS KEEPS, KMG MEDICAL GROUP, AND PROVIDERS FROM AND AGAINST ALL THIRD PARTY CLAIMS, DAMAGES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, AGAINST OR INCURRED BY US ARISING OUT OF ANY USER INFORMATION YOU UPLOAD TO OR TRANSMIT THROUGH THE SITE.

## 12. **COPYRIGHT POLICY**

Keeps complies with the copyright notice-and-takedown procedures set out in the United States Digital Millennium Copyright Act (DMCA), which applies to content reported and removed for violating U.S. copyrights. Please note that any notice or counter-notice you submit must be truthful and must be submitted under penalty of perjury. A false notice or counter-notice may give rise to personal liability. You may therefore want to seek the advice of legal counsel before submitting a notice or a counter-notice. We may share any notices and counter-notices submitted to us with others including your contact information, and by submitting any notices, you agree you have no expectation of privacy in your submission.

### ***DMCA Takedown Notices***

Content owners of copyrighted material or their representing agents may submit a DMCA notice to our registered Copyright Agent if they believe that infringing activity has taken place on our Site. The abuse team will only consider valid reports of infringement, and you may submit a complete DMCA notice that features all of the points described below only if the representing party sending the request is the content owner or the authorized agent acting on behalf of the copyright owner. If you are not sure if Keeps has control over the allegedly infringed content, please obtain legal representation before contacting us. To be effective under the DMCA, any notification of claimed infringement must be in a written communication that includes substantially the



following which must include a certification made under penalty of perjury:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed, as well as information sufficient for Keeps to determine the legitimacy of the signature and the identity of the signatory;
- Identification of the copyrighted work claimed to have been infringed, or, if a single notification covers multiple copyrighted works at a single online site, a representative list of such works at that site, including citation to the applicable copyright registrations where available;
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit Keeps to locate the material, including a timestamp and visible identification of the material in a screenshot or comparable medium, with all metadata intact, as well as a hyperlink or URL to the website or online content at issue;
- Information reasonably sufficient to permit Keeps to contact the complaining party, including an email address, telephone number, and, if available, physical mail address;
- A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- Any such notifications of claimed infringement must be sent to the below contact with the subject line "DMCA NOTICE":

Keeps Copyright Agent Losey PLLC 1420 Edgewater Drive Orlando, FL 32804 (407)  
906-1605 DMCA@losey.law

Please note if any notification of claimed infringement does not meet the above requirements, Keeps has no responsibility to respond to or act on any such defective notification of claimed infringement.

## **DMCA Counter Notification**

If you receive a notification of claimed infringement, you may submit a counter notification to us under the DMCA. It must include the following, which includes a certification made under penalty of perjury:

- Your physical or electronic signature, as well as information sufficient for Keeps to determine the legitimacy of the signature and the identity of the signatory;
- Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;
- A statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled; and
- Your name, address, and telephone number, and a statement that you consent to the jurisdiction of the Federal District court (i) in the judicial district where your address is located if the address is in the United States, or (ii) located in the Southern District of New York, if your address is located outside the United States, and that you will accept service of process from the Complainant submitting the notice or the Complainant's authorized agent.
- Any such counter notification must be sent to:

Keeps Copyright Agent Losey PLLC 1420 Edgewater Drive Orlando, FL 32804 (407)  
906-1605 DMCA@losey.law

## **13. DISCLAIMER AND LIMITATION OF LIABILITY**

THE SITE AND ALL SERVICES, INFORMATION, GOODS, AND MATERIALS MADE AVAILABLE THROUGH THE SITE ARE PROVIDED TO YOU "AS IS" WITHOUT ANY EXPRESS REPRESENTATIONS OR WARRANTIES OF ANY KIND, AND WE DISCLAIM ALL STATUTORY OR IMPLIED REPRESENTATIONS, WARRANTIES, TERMS, AND CONDITIONS WITH RESPECT TO THE SITE AND ALL SERVICES, INFORMATION, GOODS, AND MATERIALS MADE AVAILABLE THROUGH THE SITE, INCLUDING THE REPRESENTATIONS AND WARRANTIES OF SATISFACTORY QUALITY,



MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, AND TITLE. WE MAKE NO REPRESENTATION OR WARRANTY THAT THE SITE (OR ANY PART THEREOF) WILL BE ACCURATE, COMPLETE, OR ERROR-FREE, NOR THAT ANY PARTICULAR SOFTWARE OR HARDWARE, WILL BE COMPATIBLE WITH THE SITE, AND YOU HEREBY AGREE THAT IT IS YOUR SOLE RESPONSIBILITY TO (A) OBTAIN AND PAY FOR ANY SOFTWARE, HARDWARE AND SERVICES (INCLUDING INTERNET CONNECTIVITY) NEEDED TO ACCESS AND USE THE SITE AND (B) ENSURE THAT ANY SOFTWARE, HARDWARE, AND SERVICES THAT YOU USE WILL FUNCTION CORRECTLY WITH THE SITE. YOU AGREE THAT YOU MUST EVALUATE, AND THAT YOU BEAR ALL RISKS ASSOCIATED WITH, THE USE OF THE SITE, INCLUDING ANY RELIANCE ON THE ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY INFORMATION OR MATERIALS MADE AVAILABLE THROUGH THE SITE.

WE WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND IN CONNECTION WITH THE SITE, NOR FOR ANY DAMAGES FOR LOSS OF PROFITS, LOSS OF USE, LOSS OF DATA, LOSS OF OTHER INTANGIBLES, LOSS OF SECURITY OF INFORMATION YOU HAVE PROVIDED IN CONNECTION WITH YOUR USE OF THE SITE, OR UNAUTHORIZED INTERCEPTION OF ANY SUCH INFORMATION BY THIRD PARTIES, EVEN IF ADVISED IN ADVANCE OF SUCH DAMAGES OR LOSSES. FURTHER, WE WILL NOT BE LIABLE FOR DAMAGES OF ANY KIND RESULTING FROM YOUR USE OF THE SITE OR FROM ANY INFORMATION OR MATERIALS ON THE SITE. WE ARE ALSO NOT LIABLE FOR THE ACTS OR OMISSIONS OF KMG MEDICAL GROUP OR THE PROVIDERS.

YOUR SOLE AND EXCLUSIVE REMEDY FOR DISSATISFACTION WITH THE SITE IS TO STOP USING THE SITE. OUR MAXIMUM LIABILITY FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), OR OTHERWISE SHALL BE THE TOTAL AMOUNT, IF ANY, PAID BY YOU TO US TO ACCESS AND USE THE SITE.

IT IS POSSIBLE THAT APPLICABLE LAW MAY NOT ALLOW FOR LIMITATIONS ON CERTAIN IMPLIED WARRANTIES OR EXCLUSIONS OR LIMITATIONS OF CERTAIN DAMAGES; SOLELY TO THE EXTENT THAT SUCH LAW APPLIES TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS. IF APPLICABLE LAW PROHIBITS THE LIMITATION OR EXCLUSION OF A PARTY'S LIABILITY WITH RESPECT TO DEATH OR

PERSONAL INJURY CAUSED BY SUCH PARTY'S NEGLIGENCE, FRAUD, OR ANY OTHER MATTER, THEN SUCH PARTY'S LIABILITY WILL NOT BE LIMITED OR EXCLUDED TO THE EXTENT OF SUCH PROHIBITION UNDER SUCH APPLICABLE LAW.

#### **14. INDEMNIFICATION**

Except to the extent prohibited under applicable law, you agree to indemnify, defend, and hold harmless Keeps; its officers, directors, employees, and agents; KMG Medical Group; and any other affiliates from and against any and all claims, losses, liability, damages, costs, or expenses, including reasonable attorneys' fees and costs, that may arise from or in connection with (a) your use of, or activities in connection with, the Site or Service or (b) any violations of these Terms by you. If you fail to promptly indemnify and defend a covered claim, Keeps shall have the right to defend itself, and in such case, you shall promptly reimburse Keeps for all of its associated costs and expenses.

#### **15. SUPPLEMENTAL TERMS**

In addition to these Terms, Providers that access or use the Site or our Service are subject to the following supplemental terms (the "Supplemental Terms"). In the event of a conflict between the Supplemental Terms and our main Terms, the Supplemental Terms shall prevail.

To use the Site, a Provider must be a licensed clinician contracted or employed by KMG Medical Group and must agree to comply with all laws, medical board rules, and other rules and regulations applicable to the Provider. A Provider's relationship with Keeps users, including KMG Medical Group is directly between the Provider and the patient. The patient will never have a physician-patient relationship with Keeps. Keeps does not practice medicine and offers no medical services. Accordingly, each Provider that accesses or uses Keeps' Site or Service is solely responsible for all agreements, consents, notices, and other interactions with patients and other consumers. Without limiting the generality of the foregoing, each Provider is solely responsible for all billings and collections from patients and other consumers, and Keeps shall have no liability whatsoever to any Provider with respect to any amounts owed by any patient or other consumer to a Provider.

Keeps does not provide any medical advice, legal advice, or representations regarding any legal or medical issues associated with a Provider, including but not limited to any

compliance obligations or steps necessary to comply with any state or federal laws or other regulations. Similarly, Keeps does not provide any medical advice, legal advice, or representations regarding any goods or services offered by a Provider. Accordingly, every Provider should seek legal counsel regarding any legal or compliance issues and should not rely on any materials or content associated with Keeps, its Site, or its Service in determining a Provider's compliance obligations under law. Each Provider and Keeps agree that Keeps does not provide any medical or legal advice to any patient, consumer, or other individual.

Providers may only use the Site and Service in accordance with applicable standards of good medical practice. While software products such as the Site and Service can facilitate and improve the quality of service that a Provider can offer patients, many factors, including the provider/patient relationship can affect a patient outcome. Moreover, with intricate and interdependent technologies and complex decision-making, it is often difficult or impossible to accurately determine to what extent and which factors may have affected an outcome. Therefore, each Provider shall be solely responsible for its use of Keeps' Site and Service as well as the provision of medical services to that Provider's patients.

Each Provider also agrees to release Keeps and waive any and all potential claims against Keeps as a result of the Provider's use of the Site and Service and the provision of services to the Provider's patients. As a result of the complexities and uncertainties inherent in the patient care process, each Provider agrees to defend, indemnify, and hold Keeps harmless from any claim that is brought against Keeps, regardless of the cause, if such claim arises out of the Provider's use or operation of the Site or Service. Such claims include those brought by or on behalf of any patient of the Provider as well as any other third party or person bringing a claim against Keeps based on a familial or financial relationship with a patient of a Provider.

To the extent applicable, a Provider shall obtain Keeps' prior written consent to any settlement or judgment in which the Provider agrees to any finding of fault of Keeps or defect in the Site or Service. In such situations, Keeps will promptly (1) notify the Provider in writing of any claim subject to this indemnification, (2) provide the Provider with the information reasonably required for the defense of the same, and (3) grant to the Provider exclusive control over its defense and settlement.

If you submit, upload, transmit, or post any consents, notices, advice, recommendations,

comments, files, videos, images or other materials to us or our Site ("Provider Content") or provide any Provider Content to patients or other consumers, you agree not to provide any Provider Content that (1) is defamatory, abusive, libelous, unlawful, obscene, threatening, harassing, fraudulent, pornographic, or harmful, or that could encourage criminal or unethical behavior; (2) violates or infringes the privacy, copyright, trademark, trade dress, trade secrets or intellectual property rights of any person or entity; or (3) contains or transmits a virus or any other harmful component.

Each Provider is solely responsible for obtaining all necessary agreements and consents from, and providing all required notices to, patients and other consumers. Providers agree not to contact other users through unsolicited e-mail, telephone calls, mailings, or any other method of communication. Each Provider represents and warrants to Keeps that the Provider has the legal right and authorization to upload all Provider Content to the Site. Keeps shall have a royalty-free, irrevocable, transferable right and license to use the Provider Content however Keeps desires, including without limitation, to copy, modify, delete in its entirety, adapt, publish, translate, create derivative works from and sell or distribute such Provider Content, and incorporate such Provider Content into any form, medium, or technology throughout the world. Keeps is and shall be under no obligation (1) to maintain any Provider Content in confidence; (2) to compensate any Provider for any Provider Content; or (3) to respond to any Provider Content.

Keeps does not regularly review Provider Content, but does reserve the right (but not the obligation) to monitor and edit or remove any Provider Content submitted to the Site. Each Provider grants Keeps the right to use the name that the Provider submits in connection with any Provider Content. Providers agree not to use false email addresses, impersonate any person or entity, or otherwise mislead any

patients, consumers, or other individuals as to the origin of any Provider Content. Each Provider is and shall remain solely responsible for the content of any Provider Content the Provider posts to the Site or provides to patients or other consumers. Keeps and its affiliates take no responsibility and assume no liability for any Provider Content submitted by a Provider or any other third party.

## **16. GOVERNING LAW**

By accessing the Service, you agree that the statutes and laws of the United States and the state of New York, USA, without regard to conflicts of laws principles, will apply to all

matters relating to use of this Site or use of the Service. You further agree that any litigation, action, or proceeding arising out of or related to these Terms shall be subject to the sole and exclusive jurisdiction of the state of New York and that venue shall be in an appropriate state or federal court located in the Southern District of New York. You hereby submit to the jurisdiction and venue of said courts and consent to service of process by email in any legal proceeding.

## **17.ARBITRATION**

Any dispute, claim, or controversy arising out of or relating in any way to these Terms; the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate; or your use of the Site, including products purchased or Service rendered through the Site, shall be determined by binding arbitration in New York. By agreeing to these Terms, you understand and accept that the U.S. Federal Arbitration Act governs the interpretation and enforcement of this provision, and that you and Keeps are each waiving the right to a trial by jury or to participate in a class action. Moreover, you agree that this arbitration provision shall survive termination of these Terms and any other contractual relationship between you and Keeps.

If you desire to assert a claim against Keeps and elect to seek arbitration, you must first send to Keeps, by certified mail, a written notice of your claim ("Notice"). The Notice to Keeps should be addressed to: 82 Nassau St. #61392, New York, NY 10038 ("Notice Address"). If Keeps desires to assert a claim against you and therefore elects to seek arbitration, it will send, by certified mail, a written Notice to the most recent address we have on file or otherwise in our records for you.

A Notice, whether sent by you or by Keeps, must (a) describe the nature and basis of the claim or dispute, and (b) set forth the specific relief sought ("Demand"). If Keeps and you do not reach an agreement to resolve the claim within thirty (30) days after the Notice is received, you or Keeps may commence an arbitration proceeding or file a claim in small claims court. During the arbitration, the amount of any settlement offer made by

Keeps or you shall not be disclosed to the arbitrator. You may download or copy a form Notice and a form to initiate arbitration from the American Arbitration Association at [www.adr.org](http://www.adr.org).

If you are required to pay a filing fee, after Keeps receives notice at the Notice Address that you have commenced arbitration, it will promptly reimburse you for your payment of the filing fee, unless your claim is for more than \$10,000 (USD). The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively the "AAA Rules") of the American Arbitration Association ("AAA"), as modified by these Terms, and will be administered by the AAA. The AAA Rules and relevant forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by requesting them from us by writing to us at the Notice Address.

The arbitrator is bound by these Terms. All issues are for the arbitrator to decide, including issues relating to the scope and enforceability of these Terms and this provision. Unless Keeps and you agree otherwise, any arbitration hearings will take place in the county (or parish) of your billing address. If you reside outside of the United States, any arbitration hearings will take place in your country of residence at a location reasonably convenient to you, but will remain subject to the AAA Rules including the AAA rules regarding the selection of an arbitrator.

If your claim is for \$10,000 (USD) or less, you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds \$10,000 (USD), the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. If the arbitrator issues you an award that is greater than the value of Keeps' last written settlement offer made before an arbitrator was selected, or if Keeps did not make a settlement offer before an arbitrator was selected, then Keeps will pay you the amount of the award or \$1,000 (USD), whichever is greater.

Except as expressly set forth herein, the payment of all filing, administration, and arbitrator fees will be governed by the AAA Rules. Each party shall pay for its own costs and attorneys' fees, if any. However, if any party prevails on a statutory claim that



affords the prevailing party attorneys' fees, or if there is a written agreement providing for payment or recovery attorneys' fees, the arbitrator may award reasonable fees to the prevailing party, under the standards for fee shifting provided by law. If this arbitration provision is found to be unenforceable, then the entirety of this arbitration provision shall be null and void, and the remaining provisions of these Terms shall remain in full force and effect. Exclusive jurisdiction and venue for any claims will be in state or federal courts located in and for New Castle County, Delaware.

## **18.CLASS ACTION WAIVER**

YOU AND KEEPS AGREE THAT EACH PARTY MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING. Notwithstanding any provision in the AAA Rules to the contrary, any arbitrator that oversees a dispute between you and Keeps shall have no authority to hear the arbitration as a class, consolidated, representative, or private attorney general action or to consolidate, join, or otherwise combine the disputes of different persons into one proceeding, unless you and Keeps agree otherwise. The arbitrator may award declaratory or injunctive relief but only in favor of the individual party seeking relief and to the extent necessary to provide relief warranted by that party's individual claim. Notwithstanding the arbitration provision set forth above, if this provision regarding waiver of class, collective, representative, and private attorney general claims is found to be void or otherwise unenforceable, any such class, collective, representative, or private attorney general claims must be heard and determined through an appropriate court proceeding in any court of competent jurisdiction in New York, and not in arbitration.

## **19.THIRD PARTY RIGHTS**

Unless expressly stated in these Terms, nothing herein is intended to confer any rights or remedies on any persons other than you, Keeps, KMG Medical Group, and our affiliates. Moreover, nothing in these Terms is intended to relieve or discharge the obligations or liability of any third persons to you, Keeps, KMG Medical Group, or our affiliates, nor shall any provision give any third parties any right of subrogation or action against you, Keeps, KMG Medical Group, and our affiliates.

## **20.ASSIGNMENT**

You may not assign, transfer, or delegate these Terms or any part thereof without Keeps' express written consent. Keeps may freely transfer, assign, or delegate all or any part of these Terms, and any rights or duties hereunder or thereunder. These Terms will be binding upon and inure to the benefit of the heirs, successors, and permitted assignees of the parties.

## **21.FORCE MAJEURE**

We will not be deemed to be in breach of these Terms or liable for any breach of these Terms or our Privacy Policy due to any event or occurrence beyond our reasonable control, including without limitation acts of God, terrorism, war, invasion, failures of any public networks, electrical shortages, earthquakes or floods, civil disorder, strikes, fire, or other disaster.

## **22.MISCELLANEOUS TERMS**

These Terms and other Keeps documents cited herein constitute the entire agreement between you and Keeps and govern your use of the Services, superseding any prior agreements between you and Keeps relating to your use of the Services. If any provision of these Terms is held to be invalid by any law, rule, order, or regulation of any government or by the final determination of any state or federal court, such invalidity shall not affect the enforceability of any other provision of the Terms. The failure of Keeps to exercise or enforce any right or provision of the Terms shall not constitute a waiver of such right or provision.

## **23.CONTACT US**

If you have any questions about these Terms, please write to or call us at:

Thirty Madison, Inc.  
82 Nassau St #61392  
New York, NY 10038  
Email: [help@keeps.com](mailto:help@keeps.com)

Although Keeps will in most circumstances be able to receive your communications, Keeps does not guarantee that it will receive such communications timely and accurately and shall not be legally obligated to read, act on, or respond to any such email or other information. Be aware that your email communications to Keeps may not be secure and



will not be treated as confidential.

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